

CHAPTER NO. 115

HOUSE BILL NO. 1105

By Representatives Sargent., Boyer

Substituted for: Senate Bill No. 1589

By Senators Haun, Atchley

AN ACT to amend Tennessee Code Annotated, Section 68-105-109, relative to notification of blasting accidents, the cessation of blasting operations after accidents, the imposition of disciplinary action and civil penalties, and emergency variations.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 68, Chapter 105, Section 109 is amended by deleting the section in its entirety and by substituting instead the following:

(a) Notification of accident. In the event of a blasting accident, the blaster in charge of the site shall notify the department where death, personal injury requiring hospital admission, or property damage of at least five thousand dollars (\$5,000.00) due to flying debris occurs as a result of a blasting operation. If the blaster in charge is incapacitated, the blasting firm shall be responsible for notifying the department immediately in the event of an accident described herein.

(b) Cessation of blaster operations. When a reportable accident occurs, the blaster in charge shall cease blasting operations immediately and shall be prohibited from conducting further blasting operations until such time as the department's investigation is completed. In no event, however, shall this cessation last longer than five (5) working days unless the commissioner determines that a longer period of time is necessary based upon his finding of just cause.

(c) Preservation of evidence. When a reportable accident occurs, blasting operations at the site shall cease in an area sufficient to preserve evidence of the accident until the department completes its initial investigation. In no event, however, shall this cessation last longer than three (3) working days unless the commissioner determines that a longer period is necessary based upon his finding of just cause. The requirements of this section do not apply to measures taken at the site to resume traffic flow, to facilitate emergency operations, or for the mitigation of damage.

(d) Enforcement authority. The department may refuse to grant, or may suspend, revoke or refuse to renew any registration held under the provisions of this chapter, and may assess a civil penalty in an amount not to exceed five hundred dollars (\$500.00) for each violation of this chapter or the rules promulgated hereunder.

(e) Hearings and judicial review. The provisions of the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, govern all matters and procedures respecting the hearing and judicial review of any contested case, as defined therein, arising under this chapter.

(f) The department may approve variations from the requirements of this chapter where it finds that an emergency exists and that the proposed variations from the specific requirements:

- (1) Are necessary;
- (2) Will not hinder the effective administration of the chapter; and
- (3) Will not be contrary to the provisions of any other applicable law, either state or federal.


SECTION 2. This act shall take effect on July 1, 1999, the public welfare requiring it.

PASSED: April 26, 1999


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES


JOHN S. WILDER
SPEAKER OF THE SENATE

APPROVED this 4th day of May 1999


DON SUNDQUIST, GOVERNOR